

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: ZALEVSKY4

In re Application of:)	Conf. No.: 2605
)	
Zeev ZALEVSKY et al)	Art Unit:
)	
Appln. No.: 10/565,623)	Examiner:
)	
Filed:)	Washington, D.C.
)	
For: METHOD FOR PRODUCTION OF)	
MICRO-OPTICS STRUCTURES)	
)	

DECLARATION OF DEVIN KATZ

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building, Mail Stop Amendments
401 Dulany Street
Alexandria, VA 22314

Sir:

I, the undersigned Devin Katz, hereby declare and state as follows:

I am the Administrator, Foreign Filing - Patents, at Reinhold Cohn and Partners, a firm of Israeli patent attorneys in Tel Aviv, Israel.

It is my responsibility to prepare the documentation for filing of applications to be filed outside of Israel, including PCT applications.

On March 1, 2004, I was instructed by e-mail (a copy of which is submitted herewith as Exhibit L) to open a PCT file claiming priority from three U.S. provisional

01649359\119-01

In re of Appln. No. 10/565,623

applications, namely, 60/490,655, 60/501,474, and a third filed October 10, 2003, whose number was then unknown. This e-mail also informed me that the inventors would be Yuval Kapellner, Zeev Zalevsky, Izhar Eyal, Vardit Eckhouse, and Izhar Humi. I noted that the addresses given for Izhar Eyal and Izhar Humi were the same.

On May 2, 2004, our office received an e-mail from Golan Manor, VP Technical marketing ExPlay Ltd., advising that two separate PCT applications would be filed, rather than the one referred to in the preceding paragraph. Svetlana Shtadler, a patent attorney in our office, responded by e-mail of May 2, 2004, asking to confirm that one PCT application would be based on the provisional application filed in July of 2003 (60/490,655) - which eventually became the present application - and another based on the other two provisionals referred to in the preceding paragraph. By e-mail of May 2, 2004, Mimi Peretz of our office noted that the list of inventors that would be used for the PCT application corresponding to the provisional filed in July of 2003 would be Zeev Zalevsky, Vardit Eckhouse, Yuval Kapellner and Izhar Humi. On May 10, 2004, Mr. Golan Manor confirmed these facts. All of these e-mails are in the chain of emails in the document submitted herewith as Exhibit M. Thus, at this time, Yuval Kapellner was still considered to be an inventor.

In re of Appln. No. 10/565,623

In a subsequent phone conversation on May 10, 2004, we were informed that Izhar Humi and Izhar Eyal are the same person and the patent should be filed using the name Izhar Eyal.

After the revised application for the PCT application was drafted and prior to filing, our offices received an e-mail dated July 22, 2004, a copy of which is submitted herewith as Exhibit N, informing us that for the PCT application to be filed, two additional inventors were to be added, namely, Arkady Rudnitsky and Nadav Cohen.

Accordingly, my instructions were clearly to file the PCT application naming the assignee, ExPlay Ltd., as the applicant for all countries other than the U.S. and to name as inventor/applicants for the U.S. only the six inventors: Zeev Zalevsky, Vardit Eckhouse, Yuval Kapellner, Izhar Eyal, Arkady Rudnitsky, and Nadav Cohen.

It can be seen from all of this documentation that Yuval Kapellner was always considered to be one of the inventors.

However, due to an inadvertent error on my part, I accidentally checked the line "applicant only" on line III-3-1 of the PCT Request form with respect to the name of Yuval Kapellner, rather than "applicant and inventor" as was correctly inserted for all of the other inventors, and I inadvertently checked "all designated States except US" on

In re of Appln. No. 10/565,623

line III-3-2, rather than "US only," as was correctly inserted for all of the other inventors. See the Request form, a copy of which is submitted herewith as Exhibit O. This error was an inadvertent mistake on my part as all of my records correctly indicated that Mr. Kapellner was an inventor. Mr. Kapellner himself had nothing to do with this error.

This error was not noticed until after the application had entered the national and regional phases.

On July 27, 2006, I received an e-mail from Yuval Kapellner (a copy of which is submitted herewith as Exhibit P), drawing my attention to the error and clearly stating that he was an inventor and should have been listed as such. This confirms that the error was inadvertent and that all involved understood that Mr. Kapellner was an inventor.

Subsequently, Mr. Kapellner refused to sign the declaration document for entering the U.S. national phase. See the Petition under 37 CFR \$1.47(a) and the supporting documentation which, on information and belief, is being filed on even date herewith. I am also aware that Mr. Kapellner refused to sign documentation for the corresponding European Patent Office application to correct the same error that he had brought to our attention in his e-mail of Exhibit P. Thus, I also assume that he would refuse to sign the required documentation to correct the inventorship.

In re of Appln. No. 10/565,623

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

December 5, 2006
Date

Dev/Katz
Devin Katz